

U.S. DISTRICT COURT - JUDICIAL CASELOAD PROFILE

		12-MONTH PERIOD ENDING SEPTEMBER 30							
TEXAS SOUTHERN		2005	2004	2003	2002	2001	2000	Numerical Standing	
OVERALL CASELOAD STATISTICS	Filings*	14,887	15,102	13,487	12,762	10,919	10,759	U.S.	Circuit
	Terminations	14,413	14,082	12,862	12,340	10,583	11,130		
	Pending	10,054	9,634	8,589	7,904	7,512	7,102		
	% Change in Total Filings	Over Last Year		-1.4				39	5
		Over Earlier Years		10.4	16.7	36.3	38.4	6	2
Number of Judgeships		19	19	19	19	19	18		
Vacant Judgeship Months**		.3	.0	.0	14.0	21.5	5.0		
ACTIONS PER JUDGESHIP	FILINGS	Total	783	794	709	672	575	598	4
		Civil	377	433	408	405	357	397	35
		Criminal Felony	326	295	254	220	218	201	3
		Supervised Release Hearings**	80	66	47	47	-	-	4
	Pending Cases		529	507	452	416	395	395	18
	Weighted Filings**		600	629	609	585	520	557	10
	Terminations		759	741	677	649	557	618	3
	Trials Completed		25	27	32	41	44	53	25
MEDIAN TIMES (months)	From Filing to Disposition	Criminal Felony	4.7	4.5	4.6	4.8	4.5	4.4	3
		Civil**	9.8	6.8	7.2	7.1	9.0	9.5	47
	From Filing to Trial** (Civil Only)		15.3	19.5	20.8	18.9	18.5	18.3	7
OTHER	Civil Cases Over 3 Years Old**	Number	176	61	65	99	169	105	
		Percentage	3.3	1.1	1.2	1.9	3.4	2.0	24
	Average Number of Felony Defendants Filed Per Case		1.2	1.2	1.2	1.2	1.2	1.3	
	Jurors	Avg. Present for Jury Selection	48.14	55.44	49.36	47.25	46.68	44.41	
		Percent Not Selected or Challenged	36.6	42.7	40.8	41.7	41.8	44.7	

2005 CIVIL AND CRIMINAL FELONY FILINGS BY NATURE OF SUIT AND OFFENSE													
Type of	TOTAL	A	B	C	D	E	F	G	H	I	J	K	L
Civil	7172	166	273	2203	99	36	351	1815	653	366	640	14	556
Criminal*	6160	538	606	4438	214	164	29	22	18	7	51	38	35

* Filings in the "Overall Caseload Statistics" section include criminal transfers, while filings "By Nature of Offense" do not.

** See [Explanation of Selected Terms](#)

EXHIBIT

Tables

B

U.S. DISTRICT COURT - JUDICIAL CASELOAD PROFILE

		12-MONTH PERIOD ENDING SEPTEMBER 30								
WASHINGTON WESTERN		2005	2004	2003	2002	2001	2000	Numerical Standing		
OVERALL CASELOAD STATISTICS	Filings*		4,167	4,858	5,038	4,103	3,257	3,479	U.S.	
	Terminations		4,584	4,337	3,491	4,041	3,396	3,435	Circuit	
	Pending		4,303	4,608	3,890	2,373	2,325	2,486		
	% Change in Total Filings	Over Last Year		-14.2				82	13	
		Over Earlier Years		-17.3	1.6	27.9	19.8	19	4	
Number of Judgeships		7	7	7	7	7	7			
Vacant Judgeship Months**		6.7	14.0	2.6	12.0	11.0	.1			
ACTIONS PER JUDGESHIP	FILINGS	Total		595	694	720	586	465	497	
		Civil		487	582	616	498	416	433	
		Criminal Felony		74	78	68	56	49	64	
		Supervised Release Hearings**		34	34	36	32	-	16	
	Pending Cases		615	658	556	339	332	355	13	
	Weighted Filings**		626	611	621	617	557	604	7	
	Terminations		655	620	499	577	485	491	10	
	Trials Completed		16	13	10	12	17	17	60	
MEDIAN TIMES (months)	From Filing to Disposition	Criminal Felony		7.3	6.3	6.2	5.8	6.3	5.3	
		Civil**		9.6	7.2	6.4	5.8	8.1	8.5	
	From Filing to Trial** (Civil Only)		19.4	16.4	16.7	18.0	15.0	17.4	22	
OTHER	Civil Cases Over 3 Years Old**	Number		259	32	23	36	32	28	
		Percentage		6.9	.8	.7	1.8	1.6	1.3	
	Average Number of Felony Defendants Filed Per Case		1.6	1.7	1.6	1.6	1.6	1.5		
	Jurors	Avg. Present for Jury Selection		36.80	42.94	38.85	36.51	36.96	36.62	
		Percent Not Selected or Challenged		25.5	42.2	29.1	32.8	29.9	31.2	

2005 CIVIL AND CRIMINAL FELONY FILINGS BY NATURE OF SUIT AND OFFENSE													
Type of	TOTAL	A	B	C	D	E	F	G	H	I	J	K	L
Civil	3411	269	486	648	65	36	292	315	298	280	454	1	267
Criminal*	512	48	144	77	65	71	20	20	11	10	12	14	20

* Filings in the "Overall Caseload Statistics" section include criminal transfers, while filings "By Nature of Offense" do not.

** See "Explanation of Selected Terms"

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

TEXAS A&M UNIVERSITY, §
§
Plaintiff, § Civil Action No. 4:06-CV-00347
§
vs. §
§
AFFIDAVIT OF JEFFREY S. MILLER
§
§
SEATTLE SEAHAWKS, INC., §
SEATTLE PROFESSIONAL §
FOOTBALL, INC. and FOOTBALL §
NORTHWEST, LLC, §
§
Defendants. §
§
STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

Jeffrey S. Miller being first duly sworn on oath, deposes and says:

1. My name is Jeffrey S. Miller, I am over the age of 18, not a party to this action, and competent to testify in this matter.
2. I am a partner with the law firm of Foster Pepper LLC and an attorney for Defendants in this action.
3. Defendant Football Northwest LLC d/b/a the Seattle Seahawks has identified the following possible third-party witnesses in this litigation:

A. Local Media Witnesses

1. KJR Radio
Seattle, WA

A representative of KJR is expected to testify regarding the local sports radio station's use of the term "twelfth man" in its on air and in the market promotions as well as the frequency of use by the on air talent during their broadcasts.

2. KIRO News Radio
Seattle, WA

A representative of KIRO News Radio is expected to testify regarding the local flagship radio station's use of the term "twelfth man" in its on air and in the market promotions as well as the frequency of use by the on air talent during their broadcasts.

3. *The Seattle Times*
Seattle, WA

Representatives of *The Seattle Times* are expected to testify regarding the frequency of the use of the term "12th Man" in the *The Seattle Times* or SeattleTimes.com.

4. *Seattle Post-Intelligencer*
Seattle, WA

Representatives of *The Seattle Post-Intelligencer* are expected to testify regarding the frequency of the use of the term "12th Man" in *The Seattle Post-Intelligencer* or seattlepi.nwsource.com.

5. *Tacoma News Tribune*
Tacoma, WA

Representatives of *Tacoma News Tribune* are expected to testify regarding the frequency of the use of the term "12th Man" in *Tacoma News Tribune* or thenewstribune.com.

6. *Everett Herald*
Everett, WA

Representatives of the *Everett Herald* are expected to testify regarding the frequency of the use of the term "12th Man" in *Everett Herald* or heraldnet.com

7. Entercom Seattle Radio Stations
Seattle, WA

A representative of Entercom is expected to testify regarding the frequency of the use of the term "twelfth man" on its eight Seattle based radio stations and websites.

8. BELO Communications
Seattle, WA

A representative of BELO Communications is expected to testify regarding the frequency KING 5, KONG 6/16, Northwest Cable News and KING5.com used the term "12th Man" in its broadcasts, website or local promotions in the Pacific Northwest region.

9. KIRO TV
Seattle, WA

A representative of KIRO TV is expected to testify regarding the frequency KIRO 7 and KIRO7.com used the term "12th Man" in its broadcasts, website or local promotions in the Pacific Northwest region.

10. KCPQ/KTWB-TV
Seattle, WA

A representative of KCPQ/KTWB-TV is expected to testify regarding the frequency KCPQ Q13 Fox and q13trb.com used the term "12th Man" in its broadcasts, website or local promotions in the Pacific Northwest region.

11. Fox Sports Northwest
Bellevue, WA

A representative of Fox Sports Northwest is expected to testify regarding the frequency Fox Sports Northwest used the term "12th Man" in its broadcasts, website or local promotions in the Pacific Northwest region.

12. KOMO RADIO & TV, Community Relations Director
Seattle, WA

A representative of KOMO is expected to testify regarding the frequency KOMO TV and komotv.com used the term "12th Man" in its broadcasts, website or local promotions in the Pacific Northwest region.

13. KING TV, Director, Community Relations Director
Seattle, WA

A representative of KING TV is expected to testify regarding the frequency KING TV used the term "12th Man" in its broadcasts, website or local promotions in the Pacific Northwest region.

B. Seattle Area Businesses Which Used the Term "12th Man"

14. Coca-Cola USA
Bellevue, WA

A representative of Coca-Cola is expected to testify regarding the use of the term "12th Man" in Pacific Northwest region promotions and advertising.

15. Oberto Sausage Company, Promotions
Kent, WA

A representative of Oberto Sausage Company is expected to testify regarding the use of the term "12th Man" in Pacific Northwest region promotions and advertising.

16. Ram Restaurant & Brewery
Seattle, WA

A representative of Ram Restaurant & Brewery is expected to testify regarding the use of the term "12th Man" in Pacific Northwest region promotions and advertising.

17. Macy's
Seattle, WA

A representative of Macy's is expected to testify regarding the use of the term "12th Man" in Pacific Northwest region promotions and advertising.

18. E&J Gallo
Bellevue, WA

A representative of E&J Gallo is expected to testify regarding the use of the term "12th Man" in Pacific Northwest Region promotions and advertising.

19. State Roofing, Inc.
Monroe, WA

A representative of State Roofing, Inc. is expected to testify regarding the use of the term "12th Man" in Pacific Northwest region promotions and advertising.

20. Levy Sheckler
Seattle, WA

A representative of Levy Sheckler is expected to testify regarding the use of the term "12th Man," "12" and other derivatives thereof in its advertising.

21. Creative Concepts
Woodinville, WA

A representative of Creative Concepts is expected to testify regarding the use of the "12th Man" and "12" and other derivatives thereof in its advertising and brand print.

C. Witnesses Who Have Flown a "12" Flag

22. Howard S. Wright Construction Co.
Seattle, WA

A representative of Howard S. Wright Construction Co. is expected to testify regarding its request to fly the "12" flag and the frequency and occurrence thereof.

23. Nordstrom
Seattle, WA

A representative of Nordstrom is expected to testify regarding its request to fly the "12" flag and the frequency and occurrence thereof.

24. Boeing Company
Renton, WA

A representative of Boeing Company is expected to testify regarding its request to fly the "12" flag and the frequency and occurrence thereof.

25. PEMCO
Seattle, WA

A representative of PEMCO is expected to testify regarding its request to fly the "12" flag and the frequency and occurrence thereof.

26. Smith Tower, Samis Co.
Seattle, WA

A representative of Smith Tower, Samis Co. is expected to testify regarding its request to fly the "12" flag and the frequency and occurrence thereof.

27. Pier 54
Seattle, WA

A representative of Pier 54 is expected to testify regarding its request to fly the "12" flag and the frequency and occurrence thereof.

28. City Hall
Seattle, WA

A representative of City Hall is expected to testify regarding its request to fly the "12" flag and the frequency and occurrence thereof.

29. Mark Houtchens/Vance Co.
Seattle, WA

A representative of Mark Houtchens/Vance Co. is expected to testify regarding its request to fly the "12" flag and the frequency and occurrence thereof.

30. Space Needle
Seattle, WA

A representative of the Space Needle is expected to testify regarding its request to fly the "12" flag and the frequency and occurrence thereof.

31. Two Union Square
Seattle, WA

A representative of Two Union Square is expected to testify regarding its request to fly the "12" flag and the frequency and occurrence thereof.

32. Qwest Headquarters
Seattle, WA

A representative of Qwest Headquarters is expected to testify regarding its request to fly the "12" flag and the frequency and occurrence thereof.

33. YMCA
Seattle, WA

A representative of YMCA is expected to testify regarding its request to fly the "12" flag and the frequency and occurrence thereof.

34. City of Mountlake Terrace
Mountlake Terrace, WA

A representative of City of Mountlake Terrace is expected to testify regarding its request to fly the "12" flag and the frequency and occurrence thereof.

35. Spokane City Hall
Spokane, WA

A representative of Spokane City Hall is expected to testify regarding its request to fly the "12" flag and the frequency and occurrence thereof.

36. Everett Events Center
Everett, WA

A representative of Everett Events Center is expected to testify regarding its request to fly the "12" flag and the frequency and occurrence thereof.

37. Boeing Field
Seattle, WA

A representative of Boeing Field is expected to testify regarding its request to fly the "12" flag and the frequency and occurrence thereof.

38. Carillon Point
Kirkland, WA

A representative of Carillon Point is expected to testify regarding its request to fly the "12" flag and the frequency and occurrence thereof.

39. Pioneer Square
Seattle, WA

A representative of Pioneer Square is expected to testify regarding its request to fly the "12" flag and the frequency and occurrence thereof.

40. Washington Athletic Club
Seattle, WA

A representative of Washington Athletic Club is expected to testify regarding its request to fly the "12" flag and the frequency and occurrence thereof.

41. Greater Kirkland Chamber
Kirkland, WA

A representative of Greater Kirkland Chamber is expected to testify regarding its request to fly the "12" flag and the frequency and occurrence thereof.

42. City of Seattle
Seattle, WA

A representative of City of Seattle is expected to testify regarding its request to fly the "12" flag and the frequency and occurrence thereof.

43. Capitol Building

A representative of the Capitol Building is expected to testify regarding its request to fly the "12" flag and the frequency and occurrence thereof.

44. Bank of America Tower
Seattle, WA

A representative of the Bank of America Tower is expected to testify regarding its request to fly the "12" flag and the frequency and occurrence thereof.

45. Redmond Renaissance Inn
Redmond, WA

A representative of the Redmond Renaissance Inn is expected to testify regarding its request to fly the "12" flag and the frequency and occurrence thereof.

46. King County United Way
Seattle, WA

A representative of King County United Way is expected to testify regarding its request to fly the "12" flag and the frequency and occurrence thereof.

47. Wright Hotels, Inc.
Seattle, WA

A representative of Wright Hotels, Inc. is expected to testify regarding its request to fly the "12" flag and the frequency and occurrence thereof.

48. University of Washington Business School
Seattle, WA

A representative of the University of Washington Business School is expected to testify regarding its request to fly the "12" flag and the frequency and occurrence thereof.

49. Woodland Park Zoo
Seattle, WA

A representative of the Woodland Park Zoo is expected to testify regarding its request to fly the "12" flag and the frequency and occurrence thereof.

D. John Doe Witnesses

50. The Seahawks also anticipate calling John Doe witnesses to be determined that will testify about the frequency, duration and type of exposure of "12th Man" references they observed while living in Seattle.

Jeffrey S. Miller

SUBSCRIBED AND SWORN to before me this 2nd day of March, 2006.

Jeffrey S. Miller
(Signature of Notary)

Notary public in and for the State of Washington, residing at Lynden, WA.
My appointment expires: 1/29/09

